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When the Streets Are Better Than the Courts

The slogan of the Administration in its fight for new civil rights legislation is, as the President put it in his special message of June 19, to get the issue "out of the streets and into the courts." But the truth is that Mr. Kennedy was not prevailed upon to issue this special message until the Negro had moved out of the courts and into the streets. So long as the struggle was confined to the courts, progress was unbearably slow. Nine years after the school decision, three States, Alabama, Mississippi and South Carolina had made no effort to comply. In others, progress was ludicrous. The latest figures available showed that the proportion of Negroes, in schools with whites, to total Negro enrollment was 0.013% in Georgia, 0.036% in Louisiana, 0.230% in Arkansas, 0.265% in North Carolina, 0.532% in Florida, and 0.556% in Virginia, i.e. less than 1 percent.

Where the Burden Falls

The reason for this is relevant to the fight over a public accommodations bill. An authoritative work on the school segregation cases (*Albert P. Blaustein and Clarence Clyde Ferguson, Jr.: Desegregation and the Law*) says, "Inherent in the mode of enforcement was a factor of delay—and it was a delay which could easily be multiplied manyfold by judges reluctant to give cooperation . . . judicial enforcement is dependent upon someone initiating litigation. And this task has fallen by default to those who are in a disadvantageous position for instituting legal proceedings—the Southern Negroes." This also applies to the public accommodations bill, whether in the Administration version or in that put forward by a group of Republicans under Lindsay of New York. Under either the primary mode of enforcement is for the aggrieved Negro to sue for an injunction. This takes nerve in the South, money and patience. The first is growing but the two last are running short.

It is true that under either bill, the Attorney General could bring action on behalf of an aggrieved person. But in the maneuvering for a compromise, the white supremacists will seek to take this power out of the bill. They will also seek to obtain an exemption for smaller establishments broad enough to exempt businesses in the small towns and rural areas of the South where the Negro most needs help. What will then be left will be a license to litigate in the larger cities.

The courageous Lindsay has been ahead of the Administration on civil rights but as between its bill, based on the commerce clause, and his bill, based on the 14th amendment, the South will scent advantages in the latter. The Attorney General in his appearance before the House committee was not only tactless in dealing with Lindsay, a valuable Republican ally, but poorly briefed on these differences. The Lindsay bill is not at all like the Civil Rights Act of 1875 which was declared unconstitutional in 1883. Instead of remedy by injunction, it made discrimination in public accommodations a misdemeanor punishable by $1,000 fine or one year in jail. In addition the aggrieved person could receive $500 and costs for the offense. This was based on the view that the 14th amendment intended to give the Negro Federal protection for full rights of citizenship. The Court read the Amendment narrowly, as a safeguard only against State action. Lindsay would meet this standard by holding that discrimination may be enjoined "if such business is authorized by the State or local subdivision." But what if the South

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"Leaks" Designed to Make Trouble

That New York Times story (July 1), "New Atom Tests by Soviet Hinted in AEC Findings", had its origin in Dr. Edward Teller's breakfast conference here in Washington June 26 with Republican Congressional opponents of a test ban. It was first published by Earl H. Voss in the Washington Sunday Star June 30. Information of this kind is supposed to be classified, but Dr. Teller and Air Force "leakers" of anti-test ban alarums seem to be able to spill stuff of this kind with impunity. There seems to have been an atmospheric explosion in the Soviet Union June 12, two days after the President said the U.S. would not test in the atmosphere so long as other nations didn't. It seems to have been in the one kiloton range or less, a range in which the Soviets have set off chemical explosions in the past. Mr. Voss quoted one unnamed official as telling him, "The tendency now, as days have worn into weeks without discovery of radioactive debris, is to revise sharply downward the probability the disturbance was a nuclear blast." But Dr. Teller is saying it might have been a "clean" bomb and using the incident to "prove" that even atmospheric tests may escape detection.

That story in the New York Times June 30, "U.S. Considering Cut in Its Output of Atomic Arms", was first carried by the UPI wire from an undisclosed source the afternoon of July 25. This seems to have been another of those Pentagon leaks designed to undercut disarmament talks. The UPI said we were planning a possible reduction of $1 billion a year in production of nuclear fuel for stockpile. Ever since 1955 Ralph Lapp, author of the recent study "Kill and Overkill", has been saying that our stockpile of nuclear material was far beyond any possible use. Disarmament officials had hoped to negotiate with the Russians an agreement to stop or sharply reduce further production. The disclosure that we are considering a sharp cutback in nuclear output, anyway, would (1) make this appear no concession to the Russians and (2) alert Congressmen from uranium mining and plutonium producing areas.

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Two Reminders of Reality During JFK's Visit to the Reich

The Sentence the Germans in the Paulskirche Did Not Applaud

For us the climactic moment of the President's trip to Germany came when he looked across the Wall in Berlin and saw the sign (see box below) which wanted to know when our Potsdam pledges "to uproot German militarism" were going to be fulfilled in West Germany. Whatever one may think of Ulbricht's realm—where youth is again taught *to obey blindly and to march—the question* and the reproach are inescapable. Instead of constantly reassuring the West Germans, we might occasionally think of reassuring those Europeans on both sides that we're not going to abandon *them* to a remilitarized Germany, trained by NATO in the use of nuclear arms.

A Gory Commitment

The need for such reassurance must have occurred to Mr. Kennedy himself from the absence of applause at a key passage in the Frankfurt speech where he assured the Germans that the U.S. "will risk its cities to defend yours because we need your freedom to protect ours." This was received with enthusiasm but there was a chill when Mr. Kennedy balanced this off by declaring "we work toward the day when there may be real peace between us and the Communists." His listeners did not seem to like this idea at all. One correspondent (Carroll Kilpatrick in the Washington Post June 26) noted "Members of the Bundestag and other high officials in the Paulskirche interrupted the President's speech with applause 21 times. But they did not applaud that sentence."

Though the Germans want us to risk our cities to protect theirs, few of them seem to recognize a reciprocal obligation to let us try to protect our cities (and theirs) from a holocaust by negotiating some lessening of world tension. Every time agreement with Moscow is even faintly possible, as now on the eve of the new test ban talks, Adenauer puts obstances in the way. In his very first words of welcome to the President, his emphasis was placed harshly and meaningly on Mr. Kennedy's pledge in his June 10 peace speech to "make no deal with the Soviet Union at the expense of other nations and other peoples." It never seems to occur to Adenauer that we might make a deal that would benefit all peoples.

The reassurance Adenauer really wants is that we will not end the cold war. With it would end Germany's ability to play East and West, the U.S. and France against each other while she revives as a major military power, able again to seek her ends by threat and blackmail.

It would be folly to overlook the darker forces in the Reich. On the eve of the President's visit, the *National Zeitung und Soldaten Zeitung*, rightist organ of the Reich's veterans, proclaimed across its front page (May 24) "Achtung! Breslau! Morgen kommen die Deutschen" (Warning! Breslau! Tomorrow the Germans come) in an article about the Oder-Neisse territories taken over by Poland. A neutralist German journalist, Lorenz Knorr, has just been sentenced to pay 300 marks or spend 30 days in jail for writing an article in which he charged that the five highest Generals in the Bundeswehr, notably Gen. Fortsch, were guilty of war crimes and massacres in Russia. *Le Monde* (June 1) reported that Herr Knorr's charges were so fully supported at the trial by Robert Kempner, former U.S. prosecutor at Nuremberg, by Lord Russell of Liverpool and by members of the French resistance that Court was forced to scale down the original charges from "defamation and calumny" to "insult" under circumstances which made the conviction "practically equivalent to an acquittal." These are the Generals and these are the forces with which we are allied.

In the razzle dazzle of the German visit, Mr. Kennedy's tentative moves away from the cold war, characteristically ambivalent to begin with, tended once more to blur. Our vocabulary and the German is not the same. "Freedom" for too many of them is not the individual German's right to speak as he pleases but Germany's freedom to operate as it chooses on the world stage. This has ever been the meaning of "freiheit" in the Reich. We would be unwise to forget this, and unwise to be taken in by ballyhoo about the Paulskirche where Mr. Kennedy spoke as the "cradle of German democracy." The Paulskirche is not a national shrine like our Independence Hall in Philadelphia. It is not the site and symbol of a successful revolution but of a ludicrous failure, the scene of a stillbirth in 1848 from which the best German liberals fled to our shores. The cradle has long been empty and unlamented.

That Wall of Our Own

At the Berlin City Hall the President said, "Freedom has many difficulties and democracy is not perfect. But we have never had to put up a wall to keep our people in." The Berlin Wall is only the most spectacular and visible form of the restrictions which the Soviet States put on their people.

But this habit of walling citizens in for political purposes has been creeping up on us, too. Mr. Kennedy had hardly finished speaking when the State Department disclosed that in London and Amsterdam groups of American students planning trips to Cuba had been warned that they risked legal prosecution.

Americans, unlike Britishers, Frenchmen, Germans or Scandinavians, are not allowed to visit countries of which the government disapproves. This walls off Cuba, North Korea, China, North Vietnam and Albania (on which Moscow also frowns). In addition, just as the USSR denies the right to travel to citizens suspected of being anti-Communist, so we deny it to those suspected of being anti-capitalist. Under the Internal Security Act, members of registered Communist "action" or "front" organizations are forbidden even to apply for passports. Conversely, the McCarran-Walter Act denies visas for admission to this country unless the applicants swear they are not Communists or Communist fronters. That is a wall of which many foreign visitors are painfully aware.

East Germans who scale The Wall we treat as heroes. If our students go to Cuba they risk jail.

The Questions Put to the President From The Other Side of The Wall

Facing him [the President] from the Communist side of the wall was an East German sign which said:

"In the agreement of Potsdam, United States Presidents Roosevelt and Truman undertook:

"To uproot German militarism and Nazism.

"To arrest war criminals and bring them to judgment.

"To prevent rebirth of German militarism.

"To ban all militarist and Nazi propaganda.

"To ensure that Germany never again menaces her neighbors and world peace.

"These pledges have been fulfilled in the (East) German Democratic Republic. When will these pledges be fulfilled in West Germany and West Berlin, Mr. Kennedy?"

Mr. Kennedy read the sign but showed no reaction.

—Associated Press from West Berlin June 26, as published the same day in the Washington Evening Star.

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How Enemy Attack Could Evade Anti-Missile System and Achieve Maximum Damage

MIT Professor Says Russian Strategy Makes Fallout Shelters Useless

Unlike the Holifield committee civil defense hearings in past years which have given a forum only to those favoring shelters, the hearings being held on the fallout shelter program by a subcommittee of House Armed Services under the chairmanship of F. Edward Hebert of Louisiana is hearing opponents as well. We give here an abridged excerpt from the striking testimony June 24 of Wm. F. Schreiber, associate professor of electrical engineering at MIT. He appeared on behalf of the Boston Area Faculty Group on Public Issues. Prof. Schreiber said:

"On the basis of a careful investigation of the total nuclear war threat as it is developing in the sixties and seventies, I have come to the following conclusion: If the nationwide shelter system existed today, very few lives would be saved by it if war came tomorrow. Furthermore, if undertaken and completed in mid-1968 as proposed, it would be essentially useless and might, in fact, actually *increase*, rather than decrease, the number of casualties if nuclear war came then. Thus the program cannot be looked on solely as insurance which may help but cannot hurt. It is rather a specific defensive strategy which may work under some specific conditions, but which may be worse than useless in many situations which appear to me more likely.

Even Dirty Bombs

"Even dirty bombs produce no local fallout unless exploded on the ground or low enough to dig a crater. A substantial fallout threat to the nation can be produced only by the explosion of a very large number of dirty bombs in contact with the ground. We must therefore consider under what conditions bombs might be groundburst.

"At Hiroshima and Nagasaki, the bombs were airburst to maximize the area of destruction by blast. As a result no one died as a result of local fallout—there was none. In the case of a 30-megaton bomb (the probable warhead for a standard Russian T-3 ICBM) the area covered by 4 pounds per sq. inch overpressure, a level useful against residential construction or unprotected aircraft, is doubled by a 5-mile high detonation, while the fire area is *tripled* by an optimum (17 mile) altitude explosion over that obtained from a groundburst. In the latter case, the fire area is in general substantially larger than the lethal fallout area which would be obtained with a groundburst of the same weapon. We conclude that attacks against cities would be airbursts. The only situation in which groundbursts are called for is attacks on hard missile bases, where over-pressures in the 100 to 300 Psi range are needed.

"A recently advanced argument for the establishment of a fallout shelter system concerns the possibility that if an area around a city is interdicted to enemy missiles by an effective anti-ICBM installation, he would adopt the tactic of upwind groundbursts. Thus, the argument goes, shelters would be necessary to protect the city dwellers. However, there is no reason to believe that the enemy would adopt a tactic so dependent on local wind conditions, and one moreover which produces only temporary damage, relatively easy to avoid. From the attacker's point of view, high altitude airbursts produce a great deal of physical damage in addition to killing people on at least as large a scale as fallout.

"The enemy thus could plan to detonate his weapons 20 to 40 miles above the ground, avoiding the anti-missile system and securing nearly maximum incendiary effect.

"It appears to be Russian strategy to use the threat of a counter-population strike to prevent us from exploding our much more numerous counterforce arsenal. It will be a serious error to overlook clearly stated Russian intentions and capabilities of attacking our cities, as well as other targets, in case of war, with very large warheads.

"As long as their capacity to deliver nuclear weapons by ICBMs remains limited, the Soviets would almost certainly use high altitude ground bursts of large bombs in attacks against cities, causing no fallout whatever but blasting and burning vast areas around their targets."

The Dead Even With Shelters

How many Americans would die in a nuclear attack even if we had shelters? This is a question civil defense officials have hitherto dodged, offering figures on how many would be saved but never on how many would die anyway. An official estimate has now been smoked out for the first time by the Hebert subcommittee of House Armed Services in its current hearings on the fallout shelter program. At page 3093 of Part 1 of the hearings recently released there is a chart submitted by Assistant Secretary of Defense Steuart L. Pittman which discloses these grim figures.

The chart shows fatalities with or without shelters for attacks against military-urban-industrial targets ranging from 1,000 to 10,000 megatons. At 1,000 megatons, the number who would die even with shelters is given as 50,000,000. At 5,000 megatons, the deaths even with shelters would be over 80,000,000 and at 10,000 megatons over 100,000,000.

Though the chart was based on studies of attacks up to 13,000 megatons, it does not show deaths beyond the 10,000 MT attack. An earlier Institute of Defense Analysis study estimated that an attack of 20,000 MT would kill everyone whether with or without shelter.

Subsidies for Shelters Below the Schools, But None For The Schools Above Them?

"According to the Administration, the (fallout shelter) subsidy program should result in the construction over the next 5 years of some 95,000,000 shelter spaces in schools, hospitals and other non-profit institutions. The Federal share of the cost of these spaces is projected at up to $2.50 per square foot or $2.1 billion.

"What kind of shelter will a subsidy of $2.50 per square foot help buy? The school board in my town has just planned a new high school with utmost economy, which is expected to cost $14 per square foot. Every inch of space in that building will be used. Extensive, windowless, empty underground bunkers are not a standard part of this or any other school construction. There is no reason to expect that heavily reinforced underground construction will cost substantially less than economy construction above ground. The present scale would therefore place most of the cost burden on our local school taxpayers. Our local voters recently turned down a bond issue for the high school mentioned above. How do you think they will feel about being asked to pay the cost of adding another underground layer to the school? . . .

"Will it not be ironic and immoral if this Congress passes a subsidy for school construction underground, while refusing general support for wholesome school programs overground? What shall our children think of us, and what must we think of them, to do such a thing?"

—From the testimony of Dr. Johan W. Eliot on behalf of the Friends Committee on National Legislation, June 18.

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Demonstrations Have Hit Property Values Badly in the South

(Continued from Page One)

proceeds to repeal State and local licensing laws? Then there would be no ground for action under the Republican bill. On the other hand, the Federal government has sweeping powers under the commerce clause. That is the superiority of the Administration approach.

An "NLRB" For Negro Rights

A better approach than either is that proposed by Congressman Wm. Fitts Ryan of New York in the five civil rights bills he introduced last May 2, the best in Congress. The heart of these measures is to turn the Civil Rights Commission into an independent administrative body like the National Labor Relations Board or the Interstate Commerce Commission with power to issue cease-and-desist orders against racial discrimination of all kinds, whether in employment, labor unions, housing or public accommodations, and to get its orders enforced in the Courts of Appeals as other commissions do. This would bypass refractory segregationist Judges in the Federal District Courts of the South and give all minorities a specialized forum in their struggle for full equality of opportunity. This would do for the Negro what the NLRB did for labor.

The Negro must ask a lot to get a little. Unless he and his friends unite on some such sweeping demand—and back it up by peaceful and dignified demonstration—he is unlikely to get even a crippled version of the more moderate reforms asked by the Administration. Much disappointment lies ahead in Congress. In the meantime and in any case, the streets remain more effective than the courts. In many Southern cities, as in Montgomery and Birmingham, business properties cannot find buyers; property values fall as new investment shies away from fear of race protest. These sanctions more direct than any court order hit white racism where it hurts. The Negro must keep the heat turned on, not only to force some action out of Congress but to make segregation as costly as possible, *and to keep up the spirit of his own people.* Tricky new laws, disillusioning endless judicial appeals, would only wear out the Negro's explosive hopes. Revolutions are not won in courthouses.

The turning point for the Negro began with the Montgomery bus strike when he learned what the humblest could do where litigation had long failed. There is no doubt that Southern racists would like to provoke disorderly scenes this summer to turn opinion against the Negro. But the answer to that is not to call off the demonstrations but to step up the discipline. The Negro can give himself a dignity the white man has denied him. With all due respect to the President, the Negro can only win his struggle if he keeps it in the streets, and maintains the momentum of his belated mass awakening.

A Breath of Fresh Air on Cuba

"Those who propose the establishment of an American backed Cuban government-in-exile at Guantanamo Bay are suggesting that we violate our treaty rights. The U.S. Government has a signed treaty with Cuba which gives us permission to operate a naval base on Cuban soil as a coaling naval station only. It is both morally repugnant and politically unsound to suggest that we flaunt our treaty obligations by attempting to set up a military force at Guantanamo aimed at the overthrow of the Cuban Government. . . .

"Isolating Castro and refusing to talk to him may be a practical, temporary expedient. It is not a positive or permanent policy.

"Our present position seems based on the doubtful assumption that Castro, shut off from hemispheric aid and political support, will wither away. But will he? And if he does, what then? Do we have in mind a positive political alternative to Castro? The exiles appear hopelessly divided, sharing only a hatred of Castro. Do they, or we, wish to restore the economic and political conditions that existed under Batista—the very conditions that insured the success of Castro's grab for power? If not, how much of Castro's changes will we, or they, accept? Do we accept the expropriation of our sugar and cattle lands? The seizure of the oil refineries? The land reforms? . . .

"We resent the presence of Soviet forces in Cuba; yet, we cannot entirely deny Castro's claim that he invited them to come because of his fear of an American-assisted invasion of his island. . . . At a later date, I hope to suggest certain constructive steps that might be taken to open the way to a more satisfactory relationship with Cuba."

—McGovern (D. S.Dak.) in the Senate June 27.

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